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December 7, 2010

VIA ELECTRONIC SUBMISSION

Ms. Marlene H. Dortch
Office of the Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, D.C. 20554

Re: *In re Petition for Declaratory Ruling Regarding Zevo-3*, MB Docket No. 10-190,
Notice of Ex Parte Presentation

In re Sponsorship Identification Rules and Embedded Advertising, MB Docket
No. 08-90, Notice of Ex Parte Presentation

Dear Ms. Dortch:

On December 6, 2010, Susan Linn, Director of the Campaign for a Commercial-Free Childhood ("CCFC"), together with their counsel, Angela Campbell and Guilherme Roschke, and Georgetown Law student Matthew Rich, of the Institute for Public Representation ("IPR"), met with Marilyn Sonn and Josh Gottheimer from Chairman Julius Genachowski's office, Jordan Usdan, Susan Aaron from the Office of the General Counsel, and the following members of the Media Bureau: William Lake, Mary Beth Murphy, Kim Matthews, David Konczal and Holly Saurer. CCFC and IPR also met separately with Dave Grimaldi from Commissioner Mignon Clyburn's office and Joshua Cinelli from Commissioner Michael Copps' office. CCFC provided the same information in all three meetings.

To illustrate how *Zevo-3* is a commercial for Skechers' sneakers, CCFC began by showing a Skechers commercial for Z-Strap sneakers featuring the spokescharacter Z-Strap.¹ CCFC then showed a screenshot of Skechers' website featuring the spokescharacter Z-Strap

¹ SKECHERS Super Z Strap Kids Sneakers, <http://www.youtube.com/watch?v=kq9GKuE5vXc> (Dec. 6, 2010).

along with sneakers referred to as “Z-Strap Shoes.”² Finally, CCFC showed a short clip from an episode of *Zevo-3*, which featured the three spokescharacters.³

CCFC argued that if Skechers paid any consideration to Nickelodeon for the airing of *Zevo-3*, the entire program would be considered commercial matter and would clearly violate the commercial limits in the Children’s Television Act and FCC rules. CCFC emphasized that to the extent the Commission does not have information regarding what if any payment was made by Nickelodeon to Skechers to air the show, the Commission should obtain this information as part of its decision-making process.

Even if Skechers did not pay Nicktoons to air the program, CCFC explained that *Zevo-3* violated existing Commission policies requiring the separation of commercial and program content. CCFC explained that because the three spokescharacters were created and used in advertisements to sell Skechers sneakers, children would view the program as promoting the shoes associated with the characters. The confusion caused by creating a program based on advertising spokescharacters is exacerbated by the fact that two spokescharacters, Z-Strap and Elastika, share their name with a specific model of Skechers sneaker. Using the spokescharacters and their names which are the same as the shoes presents a classic case of embedded advertising. In the Commission’s Notice of Proposed Rule Making on Embedded Advertising, it concluded that embedded advertising in children’s programs would violate the separations policy.⁴

CCFC emphasized that two coalition, the Children’s Media Policy Coalition and Food Marketing Working Group, as well as over 1,500 individual parents supported CCFC’s request. CCFC also pointed out that Common Sense Media, which reviews children’s program on its website, gave *Zevo-3* low grades for “Educational value” and “Role models” while warning parents to “watch out for” issues with “violence and scariness” and “consumerism.”⁵ The Common Sense Media reviewer noted that “Parents need to know that the characters in this action cartoon originated within a Skechers commercial and the show could be construed as an extended advertisement for Skechers, who is a producer of the program.”⁶ Additionally, comments posted by viewers expressed concern about the commercial nature of the program. For example, one commented: “I turn on my T.V, only to find “Zevo-3” This show is just terrible! I’m disgusted with what Nick is actually airing. Are you serious? It’s a 22 minute commercial.”⁷ Another post stated:

² <http://www.skechers.com/shoes-and-clothing/brands/z-strap/list>. This screenshot was also Exhibit B-1 in CCFC’s reply comments.

³ *Zevo-3* episode 5 part 2, <http://www.youtube.com/watch?v=jbtkYhdMD90&> (Dec. 6, 2010).

⁴ Notice of Proposed Rulemaking – Sponsorship Identification Rules and Embedded Advertising, 23 FCC Rcd 10682, 10691-92 (2008).

⁵ <http://www.common sense media.org/tv-reviews/zevo-3>; see Attachment A.

⁶ Review by Emily Ashby, <http://www.common sense media.org/tv-reviews/zevo-3> (Dec. 7, 2010).

⁷ Review by TheMolli6, age 17, <http://www.common sense media.org/tv-reviews/zevo-3/user-reviews?filter=kid> (Dec. 7, 2010).

On top of the obvious product placement (the main characters are all based off of older Sketchers commercials) and excessive flirting done by children, the show has no educational value, implies that violence is the only way to defeat their enemies, has no visible role models, and uses inappropriate words constantly (stupid and butt are among the most common).⁸

Finally, CCFC emphasized that it was only requesting that the FCC issue a declaratory ruling concerning this particular children's program and that such a ruling would not affect other existing programming that feature toys or are based on movies, books or video games. While CCFC would welcome the Commission reexamining its rules protecting children from over-commercialization, such a review is unnecessary for the Commission to find that *Zevo-3* is in violation of its current laws and policies. On the other hand, the Commission's failure to act would open the floodgates to other programs featuring spokescharacters for fast food restaurants, sugary cereal and other foods that are contributing the epidemic of childhood obesity.

Sincerely,

Guilherme Roschke
Staff Attorney
Matthew Rich
Georgetown Law Student

cc (*via email*):

Kim Matthews
Marilyn Sonn
Josh Gottheimer
Mary Beth Murphy
Holly Saurer
Susan Aaron
Jordan Usdan
William Lake
David Konczal
Dave Grimaldi
Joshua Cinelli
Best Copying and Printing, Inc.

⁸ Review by Neyer, <http://www.common sense media.org/tv-reviews/zevo-3/user-reviews?filter=adult> (Dec. 7, 2010).

Attachment A

Zevo-3
(Rated TV-Y7-FV, Kids and animation, Where to watch: Nicktoons)

Tools for this page

Is it age appropriate? [About our ratings](#)

Is it any good?

Common Sense says
Violence consumes these teen superhero stories.

[Cast & show details](#) | [What's the story?](#) | [Is it any good?](#)

Themes in this show include: teamwork / cooperation

Why We Rated This **on for Ages 8 and Up**

The good stuff

Educational value: This series intends to entertain rather than educate. [More](#)

Role models: Responsible adults are mostly absent throughout the series. [More](#)

What to watch out for

Messages: Violence is the only means to an end in the series. [More](#)

Violence & scariness: Violence is rampant throughout each episode. [More](#)

Sexy stuff: Lots of flirting/flirty talk among teen characters. [More](#)

Language: No cursing, but language like "stupid" and "but..." [More](#)

Consumerism: The characters in the show originated in commercial products. [More](#)

Drinking, drugs, & smoking: Not an issue.

What Parents Need to Know
This review of Zevo-3 was written by [Emily Ashby](#)

Parents need to know that the characters in this action cartoon originated within a Skechers commercial and the show could be construed as an extended advertisement for Skechers, who is a producer of the program. In addition, the show is fraught with physical and weapon-related violence. Teen superheroes face off with a mad scientist villain who creates powerful monsters to do his bidding, so their lives are expendable, and their deaths — although implied rather than actually shown — are commonplace. What's more, the show's glaring lack of positive adult influences on the teens makes for a pretty unrealistic scenario, so it's important that if your kids tune in, they realize the differences between fantasy and reality.

Families Can Talk About
Talk to your kids about the media in their life. We have more [tools and tips that can help](#)

- Families can talk about how **violence** is portrayed by the media. Did you think this show was overly violent for a cartoon? How does it compare to other ones you've seen? [What, if anything, about the show's style made the violence seem less realistic? Does](#)

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Become a member and get recommendations from other parents based on your child's age.
Tell us your child's age:
month year
[Join Now!](#)

Already a member? [Log In](#)

Our Members Rate It

Average Rating by Parents & Educators
They rate this title **iffy** for age 12 and up.
They give it [Based on 1 reviews](#)

Average Rating by Kids
They rate this title **iffy** for age 8 and up.
They give it [Based on 3 reviews](#)

Ratings at a Glance
100% of parents don't think the messages are positive
100% of parents don't feel there are good role models
100% of parents say they notice product placement
100% of parents say it has language their kids can't use
100% of parents say the sexual behavior isn't age appropriate

Have you seen it? [Review It](#)

Find TV Shows for Your Family